

## Message Text

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ORIGIN NODS-00

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TO AMEMBASSY PANAMA IMMEDIATE

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E.O. 11652:N/A

TAGS: PBOR, PN

SUBJECT: DRAFT IMPLEMENTING LEGISLATION; SPECIAL IMMI-  
GRATION PROVISION

REFS: (A) PANAMA 08301; (B) PANAMA 01552, (C) JORDEN-  
HANSELL MARCH 9 TELECON

FOR AMBASSADOR JORDEN, FROM HANSELL

1. BEFORE ANY FURTHER ACTION BY THE DEPARTMENT AND PUR-  
SUANT TO OUR PHONE CONVERSATION THURSDAY MORNING, THIS  
CABLE DESCRIBES THE TENTATIVE UNDERSTANDING REACHED LAST  
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FRIDAY BETWEENSTATE AND ARMY ON THE ISSUE OF SPECIAL IMMI-  
GRATION PROVISIONS FOR NON-U.S. CITIZEN EMPLOYEES IN THE  
CANAL ZONE.

2. THE UNDERSTANDING IS AS FOLLOWS:

A) A NEW PROVISION (SECTION 410 OF THE DRAFT LEGISLATION)

WOULD BE ADDED TO EXISTING LAW EXTENDING SPECIAL IMMIGRANT STATUS TO NON-U.S. CITIZEN EMPLOYEES OF THE CANAL ZONE GOVERNMENT AND CANAL COMPANY AND THEIR DEPENDENTS WHO RESIDE IN THE CANAL ZONE AND HAVE PERFORMED FAITHFUL SERVICE FOR ONE YEAR OR MORE.

B) EMPLOYEES WHO ARE RETIRED OR WHO HAVE 15 YEARS OR MORE FAITHFUL SERVICE AND WHO ARE NOT COVERED BY DRAFT SECTION 410 WOULD BE ELIGIBLE UNDER EXISTING LAW (8 U.S.C. 1101(A)(27)(E)) WHICH REQUIRES: (1) A RECOMMENDATION AND A DETERMINATION OF EXCEPTIONAL CIRCUMSTANCES IS MADE BY THE AMBASSADOR, AND (2) THE SECRETARY OF STATE APPROVES SUCH RECOMMENDATION AND FINDS THAT IT IS IN THE NATIONAL INTEREST.

C) AT SECRETARY ALEXANDER'S STRONG INSISTENCE THAT THERE BE SOME ASSURANCE THAT THE DISCRETIONARY PROVISION DESCRIBED IN (B) ABOVE WOULD IN FACT BE USED FOR THE BENEFIT OF NON-U.S. CITIZEN EMPLOYEES, THE DEPARTMENT WOULD CONFIRM ITS INTENTION TO CONSIDER FAVORABLY UNDER THE EXISTING LAW APPLICATIONS FROM THE FOLLOWING PERSONS: (1) HONORABLY RETIRED EMPLOYEES WITH 15 YEARS OR MORE SERVICE WHO ARE INVOLUNTARILY SEPARATED AS A RESULT OF TREATY IMPLEMENTATION.

D) THE CRITERIA OF (C) ABOVE WOULD APPLY ONLY TO PERSONS LIMITED OFFICIAL USE

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EMPLOYED BY U.S. GOVERNMENT AGENCIES IN THE CANAL ZONE AND NOT TO OTHER UNITED STATES GOVERNMENT EMPLOYEES IN PANAMA.

3. THIS UNDERSTANDING RESULTED FROM PROTRACTED NEGOTIATIONS BETWEEN STATE AND ARMY. THE OCTOBER 20, 1977, DRAFT OF THE LEGISLATION CONTAINED A PROVISION WHICH WOULD HAVE ADMITTED ALL EMPLOYEES WITH 20 YEARS OR MORE SERVICE, AND ALL EMPLOYEES WHOSE WELFARE WAS SUBSTANTIALLY AND ADVERSELY AFFECTED BY USG EMPLOYMENT. EMBASSY OPPOSED THIS APPROACH (REFTEL A) ON GROUNDS THAT THE NUMBER ELIGIBLE WAS TOO LARGE AND THAT THE "ADVERSELY AFFECTED" CRITERION WAS POLITICALLY DAMAGING AND WOULD BE DIFFICULT TO APPLY ON A CASE-BY-CASE BASIS. DEPARTMENT THEN INITIATED DISCUSSIONS WITH ARMY TO ARRIVE AT A SOLUTION WHICH:

A) PROTECTED THOSE PRIMARILY AFFECTED, I.E., ZONE RESIDENTS,

B) LIMITED ELIGIBILITY OF NON-ZONE RESIDENTS, PARTICULARLY PRESENT EMPLOYEES, SO AS TO AVOID A "MANPOWER

DRAIN",

(C) AVOIDED THE "ADVERSE EFFECT" TEST TO WHICH EMBASSY  
OBJECTED, AND

D) CHANGED THE EXISTING STATUTE AS LITTLE AS POSSIBLE SO  
AS TO AVOID CREATING A PRECEDENT.

4. UNDERSTANDING ULTIMATELY REACHED WITH ARMY INVOLVES A  
NARROW CHANGE TO EXISTING LAW AND ELIMINATES "ADVERSE  
EFFECT" TEST. OUR ESTIMATE OF NUMBER OF PERSONS ELIGIBLE  
UNDER PROPOSED APPROACH IS: 1000 ZONE RESIDENTS EMPLOYED  
BY THE CANAL COMPANY/GOVERNMENT AND 8,750 RETIRED AND  
7000 PRESENT EMPLOYEES OF THE CANAL COMPANY/GOVERNMENT  
AND DOD WITH 15 YEARS OR MORE SERVICE. PRESENT EMPLOYEES  
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ARE ELIGIBLE ONLY IF THEY ARE INVOLUNTARILY SEPARATED AS  
A RESULT OF TREATY IMPLEMENTATION. IT IS ESTIMATED THAT  
1800 EMPLOYEES IN THIS GROUP WILL BE SEPARATED, BRINGING  
THE TOTAL ELIGIBLE TO 11,550 (1000 PLUS 8750 PLUS 1800),  
EXCLUSIVE OF DEPENDENTS. THIS FIGURE DOES NOT INCLUDE  
THE SMALL NUMBER OF PERSONS EMPLOYED BY OR RETIRED  
FROM OTHER FEDERAL AGENCIES IN THE CANAL ZONE. OVER 75  
PER CENT OF THOSE ELIGIBLE WOULD BE RETIREES, THUS LIMITING  
THE DRAIN ON ACTIVE MANPOWER.

5. SINCE DRAFT LEGISLATION IS NOW PUBLIC AND REFLECTS ONLY  
PART OF AGREEMENT REACHED BETWEEN ARMY AND STATE, AND  
DETAILS OF PROPOSED STATE-ARMY LETTER HAD NOT BEEN FORMAL-  
IZED, IT WAS AGREED CANAL COMPANY COULD DISTRIBUTE BRIEF  
GENERAL STATEMENT EXPLAINING PORTIONS OF AGREEMENT NOT  
REFLECTED IN LEGISLATION. WHEN DEPARTMENT BECAME AWARE  
OF YOUR OBJECTIONS, IT REQUESTED THAT STATEMENT NOT BE  
DISTRIBUTED AND CANAL COMPANY HAS COMPLIED WITH THIS  
REQUEST. IF WE ARE UNABLE TO CONFIRM SUBSTANCE OF AGREE-  
MENT AT THIS TIME, WE MIGHT SUGGEST THAT THE CANAL COMPANY  
ISSUE A GENERAL STATEMENT INDICATING THAT THE DRAFT LEGIS-  
LATION CONTAINS ONLY A PART OF THE SPECIAL IMMIGRATION  
PROPOSAL, AND THAT OTHER ARRANGEMENTS ARE BEING DISCUSSED.  
WE WOULD NOT DO SO, OF COURSE, UNTIL WE HAVE YOUR COMMENTS,  
AND WILL TRY TO POST-PONE ANY ACTION UNTIL AFTER THURSDAY.

6. REGARDING QUESTION POSED IN REFTTEL B, PARAGRAPH 5,  
EFFECT OF PROPOSED STATE LETTER TO ARMY WOULD BE TO EX-  
PRESS GENERAL INTENTION TO CONSIDER FAVORABLY, BOTH AT  
AMBASSADORIAL AND SECRETARIAL LEVEL, APPLICATIONS FROM  
PERSONS WITHIN CLASS DESCRIBED. STATUTORY DISCRETION TO  
DENY SUCH APPLICATIONS IN A PARTICULAR CASE WOULD NOT BE  
FORECLOSED.

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7. AS DISCUSSED IN PHONECON, WE HOPE TO DEFER ANY FURTHER  
CONVERSATIONS WITH ARMY ON THIS SUBJECT UNTIL AFTER  
THURSDAY. WE WILL KEEP YOU FULLY POSTED ON FURTHER  
DEVELOPMENTS. VANCE

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## Message Attributes

**Automatic Decaptioning:** Z  
**Capture Date:** 01 jan 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** TREATY RATIFICATION, CANALS, CAT-B  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 13 mar 1978  
**Decaption Date:** 20 Mar 2014  
**Decaption Note:** 25 YEAR REVIEW  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 20 Mar 2014  
**Disposition Event:**  
**Disposition History:** n/a  
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**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** T.FORTUNE:JV  
**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** n/a  
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**Type:** TE  
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